GOVERNMENT OF INDIA
CHEMICALS AND FERTILIZERS
LOK SABHA

UNSTARRED QUESTION NO:4344
ANSWERED ON:24.04.2008
RESTRUCTURING OF PHARMA SECTOR
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Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

(a) whether the Government has made a study or assessed the impact of Patent Laws on the restructuring of pharmasector in the country which was introduced three years back;

(b) if so, the details thereof;

(c) if not, the reasons therefor;

(d) whether such restructuring had caused the closure of some units;

(e) if so, the extent of unemployment due to closure of units; and

(f) the steps taken/proposed to be taken to absorb the skilled manpower of the closed units, if any?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS & MINISTER OF THE STATE IN THE MINISTRY OF MINES (SHRI B,K.HANDIQUE)

(a) to (f) India is a signatory to the agreement establishing the World Trade Organisation, The WTO Agreement, inter-alia, contains an agreement on IPR,namely, the Agreement on Trade Related Aspects of IPR (TRIPS). The TRIPS Agreement requires member countries to align their legislations on intellectual property in conformity with their obligations under the TRIPS Agreement. In respect of Patents, the TRIPs Agreement prescribed introduction of product patents from 1.1.2005, for pharmaceutical, food and agrochemical inventions. Accordingly, product patent protection has been provided by amending Indian Patents Act 1970.

While considering the amendments to the Indian Patents Act, 1970 elaborate consultations were carried out with all the concerned Departments of the Government of India and also with the various concerned organisations and industry associations including the prominent associations of the pharmaceutical industry. The concerns and apprehensions projected by the pharmaceutical industry, including the impact on the pharmaceutical sector as a whole, have been by and large given consideration and adequate safeguards to ensure the continued availability of medicines at reasonable prices have been incorporated in the law while finalising the amendments.

It is estimated that over 95 percent of the drugs being produced in India are off-patent and would not be affected by the introduction of product patent. Similarly the medicines included in the National List of Essential Medicines, 2003 are also off-patent and would not be affected by the product patent regime. The small number of drugs (less,than 5 percent) which are likely to be covered under product patent and were under production in India on the date of introduction of new patent regime would continue to be produced in the country without any interruption. This has been ensured under the latest amendment in the Indian Patents Act, 1970. A reasonable royalty on the production of such drugs would become payable to the patent-holder company.

Since production of the existing drugs being produced in India would not be affected by the introduction of product patent regime there is no likelihood of closure of some of the units due to this reason. As such there is no question of unemployment in the pharma industry taking place in India due to introduction of product patent regime.